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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,088

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David Sperduti

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EXAMINER

ADE, OGER GARCIA

ART UNIT

PAPER NUMBER

3687

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/825,088

**Applicant(s)**

SPERDUTI ET AL.

**Examiner**

GARCIA ADE

**Art Unit**

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 9-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 9-20 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. The amended filed on 11.04.2008 has been considered. Applicants added new claims 9-20.

### *Election/Restrictions*

2. Newly submitted claims 9, 14 and 16 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the limitations in **claim 9**: “an RF transponder configured to communicate with one or more RFID tags attached to one or more articles in a physical proximity of said RF transponder, said RF transponder further configured to decode tag data corresponding to said one or more RFID tags; and a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; wherein responsive to said transaction terminal completing a purchase of an article, said RF transponder is configured to perform at least one of: modifying a tag data stored in an RFID tag attached to said purchased article, disabling an RFID tag attached to said purchased article”;

the limitations in **claim 14**: “a transaction terminal configured to be detachably attached to a shopping cart, said transaction terminal comprising: an RF transponder configured to communicate with one or more RFID tags attached to one or more articles

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placed into said shopping cart, said RF transponder further configured to decode tag data corresponding to said one or more RFID tags; and a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; wherein said transaction terminal is configured, responsive to an interaction with a user, to initiate a purchase transaction for at least one article placed in said shopping card; and wherein said transaction terminal is configured to communicate to an exit sensor apparatus a confirmation of completing purchase transactions for all articles in said shopping cart"; and

the limitations in **claim 16**: " transaction terminal comprising: an RF transponder configured to communicate with one or more RFID tags attached to one or more articles in a physical proximity of said RF transponder, by exchanging one or more bi-directional messages with said one or more RFID tags in order to decode tag data corresponding to said one or more RFID tags; and a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; wherein responsive to an interaction with a user, said transaction terminal is configured to read a transaction card to decode a transaction card data; and wherein said one or more bi-directional messages are determined based on said transaction card data", in combination with the other limitations are directed to an invention that is patentably distinct from the combination of elements originally claimed in claims 1-8.

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Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 9, 14, and 16 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Accordingly, claims 10-13, 15, and 17-20 are withdrawn from consideration as being directed to a non-elected invention based on their dependency on claims 19, 14, and 16 respectively.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-8** are rejected under 35 U.S.C. 102(e) as being anticipated by Burger et al. (2003/0220876).

**As per claims 1 and 8**, Burger teaches a terminal for conducting a financial transaction, comprising:

a radio frequency reader (See [0098], via RFID reader 116), said reader configured to read a selected one of a plurality of payment tokens employing dissimilar

data formats, and to provide data corresponding to an elicited response from said selected one of a plurality of payment tokens employing dissimilar data formats (See [0009], via a token with a memory capable of storing dissimilar data formats);

a memory for recording data and a machine-readable program, said memory in communication with said radio frequency reader (See [0009], via a token with a memory capable of storing dissimilar data formats);

a communication module in communication with said radio frequency reader and said memory, said communication module configured to communicate bidirectionally with a remote computer-based apparatus (See [0093], via network capabilities); and

a processor module in communication with said memory and said radio frequency reader, said processor module configured by said machine-readable program to attempt to decode said data corresponding to said elicited response (See [0098], via various network capabilities);

wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data (See [0098], via a network that controls access to stored information and that also provides service to Pocket Vault holders).

**As per claim 2**, Burger et al. teaches a transaction register (See [0002], via financial transactions).

**As per claim 3**, Burger et al. teaches wherein said transaction register is operated by a salesperson (See the Abstract, via a point of sale transaction).

**As per claim 4**, Burger et al. teaches a printer (See the Abstract, via a point of sale transaction).

**As per claim 5**, Burger et al. teaches wherein said printer is configured to print a transaction receipt (See the Abstract, via a point of sale transaction).

**As per claim 6**, Burger et al. teaches an imaging device (See [0097], via a bar code reader).

**As per claim 7**, Burger et al. teaches wherein the imaging device comprises a bar code reader (See [0097], via a bar code reader).

### ***Response to Arguments***

5. Applicant's arguments filed 11.04.2008 have been fully considered but they are not persuasive.

Applicants argue that Burger does not disclose "radio frequency reader [being] devoid of a capability to simulate a reader employing reader technology other than radio frequency". The Examiner respectfully disagrees. Burger discloses in **paragraph 41** a portable substrate; a power supply supported by the substrate; and at least one controller supported by the substrate and powered by the power supply, the at least one controller being configured to generate a ***simulated magnetic stripe on the substrate*** other than radio frequency.

Applicants also argue that Burger does not disclose "an output device for confirming that a transaction is being performed". The Examiner respectfully disagrees. Burger discloses in **paragraph 133** that in connection with the description of the indicator 215, in addition to or in lieu of the display 216, other user output devices may also be employed to provide information to the Pocket Vault holder.

Applicants further argue that Burger does not disclose "decoding a response received from a payment token". The Examiner respectfully disagrees. Burger discloses in **paragraph 9** a token that may be used to engage in a transaction at a point of sale comprises a substrate, a rewritable memory, and a reconfigurable display. The rewriteable memory is supported by the substrate and can be selectively configured to store information on the token that identifies an account that is to be used to engage in the transaction at the point of sale.

In **paragraph 48**, Burger further discloses a first device; and a second device having the first device releasably attached thereto such that, when the first device is attached to the second device, the second device can cause the first device to generate a **machine-readable code** after the first device is detached from the second device, the second device including at least one controller configured so as to be capable of causing the first device to generate the machine-readable code only for a finite, predetermined period of time.

Applicants' arguments having been found unpersuasive, the rejection has not been withdrawn.



***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GARCIA ADE whose telephone number is (571)272-5586. The examiner can normally be reached on M-F 8:30AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571.272.3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/  
Supervisory Patent Examiner, Art Unit 3687

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Examiner  
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